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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

LUCAS BRUNO III, CHRISTOPHER)	CIVIL NO. 03-00567 JMS BMK
GAHR, FRANK ROBERT PAULSON,)	
CHARLES TURNER, and TOM)	ORDER GRANTING DEFENDANTS'
YOUNG,)	MOTION TO REOPEN DISCOVERY
)	
Plaintiffs,)	
)	
vs.)	
)	
MICHAEL CHERTOFF, Secretary,)	
DEPARTMENT OF HOMELAND)	
SECURITY,)	
)	
Defendant.)	
_____)	

ORDER GRANTING DEFENDANTS' MOTION TO REOPEN DISCOVERY

Defendants' Motion to Reopen Discovery came for hearing came before this court on August 17, 2006 at 10:30 a.m. Thomas A. Helper appeared on behalf of defendants and Michael S. Green, Deborah Kagawa and Denise Hevicon appeared on behalf of plaintiffs Lucas Bruno, Charles Turner and Tom Young. Plaintiff Christopher Gahr, pro se, appeared via telephone.

Defendants seek to conduct discovery on the limited issue of the settlement authority granted by plaintiff Gahr to his attorneys. The court, having considered the positions of the parties, hereby GRANTS defendants' motion. The information sought by defendants is not protected by the attorney-client privilege. It has long been settled that information on the scope of an attorney's settlement authority is not protected by the attorney-client privilege. Diversified Development & Inv., Inc. v. Heil, 889 P.2d 1212, 1218, 119 N.M. 290, 296 (1995); Peters v. Wallach, 366 Mass. 622, 321 N.E.2d 806 (1975) (collecting numerous cases).

Accordingly, in the 30 days following entry of this Order, defendants may conduct discovery on the narrow issue of the settlement authority granted by Gahr to his attorneys. For the purposes of this discovery only, plaintiff's former attorneys will be considered percipient witnesses who may be interviewed or deposed by defendants' counsel, and who may disclose information and documents to defendants in response to formal and informal requests.

IT IS SO ORDERED.



/s/ Barry M. Kurren
United States Magistrate Judge
Dated: August 21, 2006

Lucas Bruno III, et al. v. Michael Chertoff, et al.
Civil No. 03-00567 JMS BMK
ORDER GRANTING DEFENDANTS' MOTION TO REOPEN DISCOVERY